REMARKS

As a preliminary matter, entry and consideration of this After-Final Amendment is respectfully requested because the only claim amendment being proposed relates to a correction of an antecedent basis problem in Claim 16. Since amending Claim 16 to correct the antecedent basis issue does not raise a new issue that requires further search or consideration, Applicants respectfully submit that entry of this After-Final Amendment is proper, and such entry and consideration is respectfully requested.

Claims 16-20 and 22 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully traverse this rejection, as applied to amended Claim 16.

The Examiner stated that the term "the proximal body" of line 4 of Claim 16 lacks proper antecedent basis. In response, Applicants have amended independent Claim 16, line 4, to refer to "a proximal body" (emphasis added). Further, since the proximal body is now being introduced in line 4, line 5 has also been amended to refer to "the" proximal body. Since the claims, as amended, provide proper antecedent basis, Applicants respectfully request the withdrawal of this §112, second paragraph, rejection.

Claims 9, 10, 13-19, 21 and 22 stand rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 6,692,530 to Doubler et al. Applicants respectfully traverse this rejection.

Applicants respectfully submit that the Doubler et al. reference fails to disclose all of the features of the present invention. More specifically, with regard to independent Claim 9, Applicants respectfully submit that the Doubler et al. reference fails to disclose a modular hip prosthesis that includes, *inter alia*, a proximal body that is rotationally and axially adjustable "about the stem." With regard to independent Claim 16, Applicants respectfully submit that the Doubler et al. reference fails to disclose a modular hip prosthesis that includes, *inter alia*, a proximal body that is "positioned around the stem."

One example of an embodiment of the prosthesis defined in independent Claims 9 and 16 is shown in Applicants' Figures 1 and 2, which embodiment includes proximal body 14 and stem 12. In this embodiment, the proximal body includes a bore 86 (Figure 6B) so that it can be positioned around (or "about") the stem 12, as shown in Applicants' Figure 2.

In the device of Doubler et al., the Examiner equated jack screw 20 of Figures 1 and 4-6 with the claimed proximal body, and he equated rod 11 with the claimed stem. *See* December 1, 205 Office Action, page 3, paragraph 7, line 4-5. As can be seen in Figure 1a of the Doubler et al. reference, member 20 is positioned within member 11. Accordingly, member 20 can not be considered as the claimed proximal body of independent Claim 9 because it is not rotationally and axially adjustable "about the stem [11]." The most relevant definition of the term "about" in Merriam-Webster's Collegiate Dictionary defines the term as meaning "in a circle around: on every side of: around." *See* Merriam-Webster's Collegiate Dictionary, Tenth Edition, Merriam -Webster Incorporated, Springfield,

Massachusetts, page 3, 1994 (copy enclosed). Further, the context of the term "about" in Claim 9 also supports this interpretation because it refers to the proximal body being rotatable "about" the stem, which means that the proximal body is around the stem, and not that the stem is around the proximal body. Accordingly, for at least this reason, Applicants respectfully request the withdrawal of this §102(b) rejection of independent Claim 9 and associated dependent Claims 10 13-15 and 21.

With regard to dependent Claim 10, Applicants also separately traverse this §102(b) rejection under Doubler et al. because the Doubler et al. reference fails to disclose that the proximal body includes "a threaded section located along an internal longitudinal bore." Applicant's Figure 6B shows one example of a proximal body (14) that includes threaded section 92 along an internal longitudinal bore 86, as recited in Claim 10. In contrast, in the device of Doubler et al., jack screw 20 includes a threaded section 51 on an external surface (see Figure 1A), and therefore lacks a threaded section on an internal bore, as defined in Claim 10. Accordingly, for this reason also, Applicants respectfully request the withdrawal of this §102(b) rejection of Claim 10 under Doubler et al.

With regard to independent Claim 16, the device of Doubler et al. lacks the claimed proximal body that is "positioned around the stem." As mentioned above, jack screw 10 of Doubler et al., is positioned within stem 11, instead of being positioned "around" the stem, as defined in Claim 16. Accordingly, for at least this reason, Applicants respectfully request the withdrawal of this §102(b) rejection of independent Claim 16 and associated dependent Claims 17-19 and 22.

Claims 1, 2 and 4-22 stand rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent Application Publication No. 204/0122525 to Daniels et al. Applicants respectfully traverse this rejection.

Applicants respectfully submit that the Daniels et al. reference fails to disclose all of the features of the present invention. More specifically, the Daniels et al. reference fails to disclose both the "expansible collet" and the locking member having threads to "lock the proximal body and collet together," as defined in independent Claim 1. With regard to independent Claim 9, the Daniels et al. reference fails to disclose the "flexible sleeve." Finally, with regard to independent Claim 16, the Daniels et al. reference fails to disclose the "sleeve [that is] positionable between the stem and the proximal body."

With regard to independent Claim 1, the Daniels et al. reference fails to disclose both the "expansible collet" and the locking member having threads to "lock the proximal body and collet together." First, the Examiner equated either: (1) the entire taper component 90, or (2) the distal portion of component 90 with the claimed "expansible collet." *See* December 1, 2005 Office Action, page 4, paragraph 9, line 18-20. One example of an embodiment of the "expansible collet" of Claim 1 is represented by member 18 of Applicants' Figures 1 and 7A. As can be seen in these figures, member 18 is expansible due to longitudinal slots 118. In contrast, neither the distal end portion nor the entirety of component 90 of Daniels et al. is disclosed as being able to be expanded. Accordingly, for at least this reason, withdrawal of this §102(e) rejection of independent Claim 1 and associated dependent Claims 2 and 4-8 under Daniels et al. is requested.

Additionally, the Daniels et al. reference also fails to disclose the claimed locking member having threads "to lock the proximal body and collet together" as also defined in independent Claim 1. In the Examiner's first interpretation, he equated member 94 of Figure 10 of Daniels et al. with the claimed "locking member." *See* December 1, 2005 Office Action, page 4, paragraph 9, line 21-22. However, although member 94 does have threads, these threads are not used to lock the proximal body (proximal portion of member 90) and the collet (the distal portion of member 90) together. Instead, both the proximal and the distal portion of member 90 are already formed as a single component, and the threads of member 94 merely lock member 94 and member 90 together.

In the Examiner's second interpretation, he appears to have equated interdigitating surface 124 of Figure 12 with the claimed locking member. However, the interdigitating surface, which is essentially a surface with radially extending alternating slots/projections, does not have "threads," as defined in Claim 1. Further, member 124 does not lock the proximal body (members 94 and 106) and the collet (member 90) together. Instead, member 124 merely prevents relative rotation between itself and member 106.

Thus, under either the first or the second interpretation, the locking member of Claim 1 is not disclosed in the Daniels et al. reference. Accordingly, for this reason also, Applicants respectfully request the withdrawal of this §102(e) rejection of independent Claim 1 and associated dependent Claims 2 and 4-8 under Daniels et al.

With regard to independent Claim 9, the Daniels et al. reference lacks the claimed "flexible sleeve," one example of which is represented by sleeve (or collet) 18 of

Applicants' Figures 1 and 7A. In the preferred embodiment, sleeve 18 obtains its flexibility from slots 108 of Applicants' Figure 7A (however, other means of flexibility are also contemplated as being within the scope of the invention). None of the portions of member 90 (which the Examiner appears to have equated with the claimed sleeve) of the Daniels et al. reference are disclosed as being "flexible." Accordingly, for at least this reason, withdrawal of this §102(e) rejection of Claim 9 and associated dependent Claims 10-15 and 21 is respectfully requested.

With regard to independent Claim 16, the Daniels et al. reference lacks the claimed sleeve that is "positionable between the stem and the proximal body." One example of Applicants' sleeve is represented by sleeve (or collet) 18, as shown in Applicants' Figure 2. As can be seen in this figure, sleeve 18 is radially between stem 12 and proximal body 14 (which is shown in cross-section). In contrast, under the Examiner's first interpretation of Daniels et al., the distal portion of member 90 (which the Examiner appears to have equated with the claimed sleeve) is not between stem 18 and the proximal portion of member 90. Additionally, using the Examiner's second interpretation, member 90 is not between stem 18 and members 94/106. In fact, members 94/106 are actually between member 90 and stem 18. Accordingly, for at least this reason, withdrawal of this §102(e) rejection of Claim 16 and associated dependent Claims 17-205 and 22 is respectfully requested.

Applicants also separately traverse the §102(e) rejection of dependent Claims 19 and 20 under Daniels et al. Applicants respectfully submit that member 90, or even the distal portion thereof, is not "radially flexible" as defined in Claim 19, nor does it include "a plurality of longitudinal slots" as defined in Claim 20. Accordingly, for these reasons also, Applicants respectfully request the withdrawal of the §102(e) rejection of dependent Claims 19 and 20 under Daniels et al.

For all of the above reasons, Applicants request reconsideration and allowance of the claimed invention. Should the Examiner be of the opinion that a telephone conference would aid in the prosecution of the application, or that outstanding issues exist, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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Merriam-Webster's Collegiate Dictionary

TENTH EDITION

Merriam-Webster, Incorporated Springfield, Massachusetts, U.S.A.



A GENUINE MERRIAM-WEBSTER

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ab-la-tion \a-bla-shan\ n (15c): the process of ablating: as a: surgical removal b: loss of a part (as ice from a glacier or the outside of a

nose cone) by melting or vaporization

lab-la-tive \'a-bla-tiv\ adj (15c): of, relating to, or constituting a
grammatical case expressing typically the relations of separation and
source and also frequently such relations as cause or instrument ablative n

²ab-la-tive \a-'blā-tiv\ adj (ca. 1569) 1: of or relating to ablation 2: tending to ablate (~ material on a nose cone) — ab-la-tive-ly adv ablative absolute \'a-bla-tiv-\ n (ca. 1828): a construction in Latin in which a noun or pronoun and its adjunct both in the ablative case form together an adverbial phrase expressing generally the time, cause, or an

attendant circumstance of an action

ab-laut 'a-blaut, 'a-; 'ap-laut\ n [G, fr. ab away from + Laut sound]

(1849): a systematic variation of yowels in the same root or affix or in related roots or affixes esp. in the Indo-European languages that is usu.

related roots or affixes esp. in the Indo-European languages that is usu paralleled by differences in use or meaning (as in sing. sang. sang. sang. sang.) ablaze \2-balz adj or adv (1801) 1: being on fire 2: radiant with light or emotion (his face all ~ with excitement —Bram Stoker) able \2-bal\ adj abler \-b(3-bal\-a); ablest \-b(3-bal\-a); [ME, fr. MF, fr. L habilis apt, fr. habēre to have — more at HABIT] (14c) 1 a: having sufficient power, skill, or resources to accomplish an object b: susceptible to action or treatment 2: marked by intelligence, knowledge, skill, or competence — ably \2-b(3-ble\) adv able also -ible adj suffix [ME, fr. OF, fr. L -abilis, -ibilis, fr. -a-, -i-, verb stem vowels + bilis capable or worthy of 1: capable of, fit for, or worthy of (being so acted upon or toward) — chiefly in adjectives derived from verbs (breakable) (collectible) 2: tending, given, or liable to (agreeable) (perishable) — ably also -ibly adv. suffix able—bod-ied \alpha abs-l-ba-dēd\adj (ca. 1622): having a sound strong body

able seaman n (ca. 1909): ABLE SEAMAN
able seaman n (1702): an experienced deck-department seaman qualified to perform routine duties at sea
abloom \2-blim\ adj (1855): abounding with blooms: BLOOMING
\(\rho_{\text{prik}}\rho_

ab-lut-ed \3-blu-tad, a-\ adj [back-formation fr. ablution] (1650) : washed clean

ab-lu-tion \a-'blu-shan, a-\ n [ME, fr. MF or L; MF, fr. L ablutionablutio, fr. abluene to wash away, fr. ab. + luere to wash; akin to L lavere to wash — more at LYE] (1533) 1 a: the washing of one's body or part of it (as in a religious rite) b pl: the act or action of bathing 2 pl, Brit: a building housing bathing and toilet facilities on a military base — ab-lu-tion-ary \-shp-ner-\(\bar{e}\)\ adj

ABM \(\bar{a}\)\(\bar{e}\)\(\bar{e}\)\cdots or ABMs \-emz\((1963): ANTIBALTERIC MISSUE

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Ab-na-ki \ab-nä-kē\ var of ABENAKI
ab-ne-gate \ab-ni-gāt\ vi -gat-ed; -gat-ing [back-formation fr. abnegation] (1623) 1: DENY. RENOUNCE (abnegated their God) 2: SUR-RENDER, RELINQUISH (abnegated her powers) — ab-ne-ga-tor \-, ga-tor\

ab-ne-ga-tion \ab-ni-'gā-shən\ n [LL abnegation-, abnegatio, fr.

abnegare to refute, fr. ab- he gare to deny — more at NEGATE] (14c) abnor-mal \(\)(,)ab-'nor-mal, ab-\\adj \(\)(ab-'nor-mal), ab-\\adj \(\)(at 1836): deviating from the normal or average: UNUSUAL, EXCEPTIONAL \(\lambda\) behavior\\— ab-nor-mal\(\)\(\)\(\lambda\) behavior\\— ab-nor-mal\(\lambda\).

normal or average: UNUSUAL EXCEPTIONAL (~ ochavior, — ac-ac-mal-ly \-ma-l\vec{c} adv

2abnormal n(1912): an abnormal person
ab-nor-mal-i-ty \ab-nor-'ma-la-t\vec{c}, -()nor-\ n. pl-ties (1854) 1: the
quality or state of being abnormal 2: something abnormal
abnormal psychology n (ca. 1903): a branch of psychology concerned with mental and emotional disorders (as neuroses, psychoses,
and mental deficiency) and with certain incompletely understood norall branches and branches and branches. mal phenomena (as dreams and hypnosis)
abo \a-(,)bō\ n. pl ab-os (1908) Austral: ABORIGINE — often used dis-

paragingly 'aboard \5-'bord, -'bord\ adv or adj (14c) 1: ALONGSIDE 2 a: on, onto, or within a vehicle (as a car or ship) b: in or into a group, association, or organization (her second promotion since coming \$\infty\$) 3

HOME

aboil \a-boi(a)|\ adj or adv (1810) 1: being at the boiling point: BOILING 2: intensely excited or stirred up (the meeting was ~ with

controversy) abol-ish \2-'ba-lish\ vt [ME abolisshen, fr. MF aboliss-, stem of abolir fr. L abolère; prob. akin to adolescere to grow up — more at ADULT] (15c) 1: to end the observance or effect of: ANNUL 2: DESTROY — abol-ish-able \-li-sh-bol\ adj — abol-ish-er n — abol-ish-ment

-mant\ n

\\\ \text{-mont\}\ n\\ \abo-\frac{1}{abo-\fr

abominable snow-man \-'sno-man, -man\ n, often cap A&S (1921)

: a mysterious creature with human or apelike characteristics reported to exist in the high Himalayas — called also yeti abomi-nate \a-ba-ma-nat\vt-nat-ed; -nat-ing [L abominatus, pp. of abominari, lit., to deprecate as an ill omen, fr. ab- + omin-, omen

omen] (1644): to hate or loathe intensely: ABHOR syn see HATE abom-i-na-tor \-,-nā-tor\ n
abom-i-na-tion \-,-bā-mə-'nā-shən\ n (14c) 1: something abomina-

indigenous peoples of Australia syn see NATIVE - ab-orig-i-nal-ly

Paboriginal n (1767) 1: ABORIGINE 1 2 often cap: ABORIGINE 2 aborigine \a-b-'rij-(,)nē, -'ri-j-\ n [L aborigines, pl., fr. ab origine from the beginning] (1533) 1: an aboriginal inhabitant esp. as contrasted with an invading or colonizing people 2 often cap: a member

trasted with an invading or colonizing people. Losten cap: a member of any of the indigenous peoples of Australia laborning \operatorning \ope ture or stillourn dispring 2: to become checked in development so as to degenerate or remain rudimentary ~ vi 1 a: to induce the abortion of or give birth to prematurely b: to terminate the pregnancy of before term 2 a: to terminate prematurely: CANCEL (~ a project) (~ a spaceflight) b: to stop in the early stages (~ a disease) àbort-er n

abort n (1944): the premature termination of a flight (as of an aircraft or spacecraft), a mission, or an action or procedure relating to a flight

(a launch ~)

a result of such arrest

abor-ti-fa-cient \>-,bor-tə-'fa-shənt\ n (1873) : an agent (as a drug)

abor-ti-fa-cient \3-,bor-to-fa-shont\n (18/3): an agent (as a drug) that induces abortion — abortifacient adj abor-tion \3-bor-shon\n (1547) 1: the termination of a pregnancy after, accompanied by, resulting in, or closely followed by the death of the embryo or fetus: as a: spontaneous expulsion of a human fetus during the first 12 weeks of gestation — compare MISCARRIAGE b: induced expulsion of a human fetus c: expulsion of a fetus by a domestic animal often due to infection at any time before completion of pregnancy — compare CONTAGIOUS ABORTION 2: MONSTROSITY 3: arrest of development (as of a part or process) resulting in imperfection; also: a result of such arrest

abor-tion-ist \-sh(2-)nist\ n (1871): one who induces abortions

abor-tive \a-'bor-tiv\ adj (14c) 1 obs: prematurely born 2: FRUIT-LESS, UNSUCCESSFUL 3: imperfectly formed or developed 4: tending to cut short — abor-tive-ly adv — abor-tive-ness n ABO system \a-(,)b\(\bar{c}\)-\(\chi\) n (1944): the basic system of antigens of human blood behaving in heredity as an allelic unit to produce any of

the ABO blood group abound \abord groups
abound \abord [ME, fr. MF abonder, fr. L abundare, fr. abunda wave — more at water [(14c) 1: to be present in large numbers
or in great quantity: be prevalent 2: to be copiously supplied (life
and in mysteries — Norman Mailer) (institutions a with evidence of

or in great quantity: be prevalent 2: to be copiously supplied (in well as mysteries —Norman Mailer) (institutions ~ with evidence of his success —Johns Hopkins Mag.)

*about \2-baut\ adv [ME, fr. OE abūtan, fr. \(\frac{1}{a} - \) + būtan outside — more at But] (bef. 12c) 1 a: reasonably close to \(\sigma \) at a go) b: ALMOST \(\sigma \) starved) c: on the verge of — usu, used with be and a following infinitive \(\sigma \) to join the army); used with a negative to express intention or determination \(\nabla \) to quit\(\sigma \) 2: on all sides: AROUND 3 a: in rotation b: around the outside 4: HERE AND THERE 5: in the vicinity: NEAR 6: in succession: ALTERNATELY (then \(\sigma \) is fair play) 7: in the opposite direction (face \(\sigma \) (the other ⟨turn ~ is fair play⟩
way ~⟩ 7: in the opposite direction (face ~) (the other

2about prep (bef. 12c) 1: in a circle around: on every side of **BOOUT prep (per. 12c) 1: in a circle around: on every side of a ROUND 2 a: in the immediate neighborhood of: NEAR b: on or near the person of c: in the makeup of (a mature wisdom \sim him) d: at the command of (has his wits \sim him) 3: engaged in (act as if they know what they're \sim —T. S. Matthews) 4 a: with regard to: CONCERNING b: concerned with c: fundamentally concerned with or directed toward (poker is \sim money —David Mamet) 5: over or in different parts of different parts of **Jahout** adj (1815) 1: moving from place to place; specif: being out of

bed 2: AROUND 2

about face \>-baut-fas\ n [fr. the imper. phrase about face] (1861): a 180' turn to the right from the position of attention 2: a reverse a 100 turn to the right from the position of attention 2: a reversal of direction 3: a reversal of attitude, behavior, or point of view — about-face vi

about-turn \-'tərn\ n (1893) Brit: ABOUT-FACE

about—turn \"1\tann\n (1893) Brit: ABOUT-FACE

above \>-\tann\n adv [ME, fr. OE abufan, fr. a- + bufan above, fr. be- + ufan above; akin to OE ofer over] (bef. 12c) 1 a: in the sky: OVERHEAD b: in or to heaven 2 a: in or to a higher place b: higher on the same page or on a preceding page c: UPSTAIRS d: above zero (10 degrees \simple 3 : in or to a higher rank or number (30 and \simple 4 archaic: in addition: BESIDES 5: UPSTAGE

"above prep (bef. 12c) 1: in or to a higher place than: OVER 2 a: superior to (as in rank, quality, or degree) b: out of reach of c: in preference to d: too proud or honorable to stoop to 3: exceeding in number, quantity, or size: more than 4: as distinct from and in addition to (heard the whistle \simple the roar of the crowd)

above n, pl above (13c) 1 a: something that is above b: a person whose name is written above 2 a: a higher authority b: HEAVEN usage Although still objected to by some, the use of above as a noun in sense 1a (none of the above) (the above is Theseus's opinion—William Blake) and as an adjective (without the above reserve —O. W. Holmes †1935) (I was brought up on the above words —Viscount Montgomery) has been long established as standard.

"above adj (1604): written or discussed higher on the same page or on a preceding page usage see ABOVE

\ə\ abut \angle kitten, F table \ər\ further \a\ ash \a\ ace \a\ mop, mar \au\ out \ch\ chin \e\ bet \e\ easy \g\ go \i\ hit \i\ ice \j\ job \y\ yet \zh\ vision \a, k, a, ce, ce, ue, ue, ve, y\ see Guide to Pronunciation